

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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DESOTO OWNERS LLC,

Case No. 20-43387 (JMM)

Chapter 11

Debtor.

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**ORDER TO SHOW CAUSE**

**WHEREAS**, on July 30, 2021, this Court held a hearing on the Debtor's Amended Chapter 11 Plan, dated July 29, 2021; and

**WHEREAS**, at the July 30, 2021 hearing, David Goldwasser ("Goldwasser") of FIA Capital Partners appeared and represented to the Court that FIA Capital Partners was escrowing \$650,000 to fund the Debtor's proposed plan of reorganization and Debtor's counsel informed the Court that the Debtor was retaining Goldwasser as the Debtor's Chief Restructuring Officer and Meyer Lebovitz was no longer managing the Debtor; and

**WHEREAS**, the Debtor filed the Fifth Amended Chapter 11 Plan, dated August 11, 2021 [ECF No. 216] based on the proposed plan funding arrangement and the Court scheduled a confirmation hearing for September 17, 2021; and

**WHEREAS**, at the September 17, 2021 confirmation hearing: Debtor's counsel informed the Court that the proposed plan funder was not providing funding for the Debtor's Fifth Amended Plan of Reorganization; Debtor provided no explanation to the Court respecting the disposition of the \$650,000 purportedly escrowed to fund the plan; Meyer Lebovitz appeared for the Debtor and Goldwasser did not appear; and

**WHEREAS**, at Debtor's request, the Court adjourned the confirmation hearing on the Debtor's Fifth Amended Chapter 11 Plan to October 6, 2021 at 2:00 p.m.; and

**WHEREAS**, CBRE, the Debtor's real estate advisor, is actively marketing the Debtor's real property, which is the Debtor's only asset of value, an auction sale of the property is scheduled to commence on October 11, 2021 and conclude on October 13, 2021, and a hearing on the Debtor's motion to sell the real property is scheduled for October 20, 2021; and

**WHEREAS**, the Court believes there may be cause to convert the Debtor's case to a case under chapter 7 to permit a chapter 7 trustee to investigate potential causes of action belonging to the estate;

**WHEREAS**, it appears a sale of the real property may be in the best interests of the Debtor's estate and creditors and the Court should defer a determination on conversion of this chapter 11 case until after the conclusion of the hearing on the sale of the Debtor's real property. **NOW, THEREFOR**, it is

**ORDERED**, that the Debtor and Debtor's counsel appear and show cause why this case should not be converted to a case under chapter 7 of the bankruptcy code pursuant to 11 U.S.C. § 1112(b) at a hearing to be held on **October 20, 2021 at 2:45 p.m.** before the Honorable Jil Mazer-Marino, United States Bankruptcy Court, Eastern District of New York, 271-C Cadman Plaza East, Brooklyn, New York 11210; and it is further

**ORDERED**, that the hearing will be held by WebEx. The link for the hearing is: <https://us-courts.webex.com/us-courts/j.php?MTID=m4215302fe0caf18939b38aa600b385a0>. Parties may join by phone for audio participation only by calling: +1-213-306-3065,,23005245507## (United States Toll (Los Angeles)); +1-646-992-2010,,23005245507## (United States Toll (New York City)). Parties are to log in or dial in to the hearing no less than thirty (30) minutes prior to the hearing and place their audio lines on mute. Please consult your IT personnel if you have any problems registering or logging in for the hearing. For additional help go to

<http://help.webex.com>. In addition to registering for the hearing, all persons wishing to participate in the hearing by video shall send an email to [jmm\\_hearings@nyeb.uscourts.gov](mailto:jmm_hearings@nyeb.uscourts.gov) at least two (2) business days in advance of the hearing to identify the parties that will appear. Such electronic mail shall identify the case name and number in the email's subject field. The body of the email shall include the full name and email address of the proposed participant and the party represented, and whether the party shall appear by audio only or by audio and video. The parties are directed to limit video conference participation to those who are necessary to address the matters. If the number of persons wishing to participate in the video conference, in the Court's view, exceeds the number which would permit the efficient, stable, and reliable transmission of the hearing by video conference, the Court may require that certain persons be permitted to participate in the hearing only by audio; and it is further

**ORDERED**, that the Clerk of the Court give notice of this order to Debtor's counsel, the Office of the United States Trustee, all creditors listed in the creditor matrix, and any party filing a notice of appearance by regular mail by October 1, 2021; and it is further

**ORDERED**, that parties in interest may, but are not required to, file pleadings in support of or in opposition to conversion of this case to chapter 7. To be considered by the Court, any such pleadings must be filed with the Court by noon on **October 18, 2021**.

**Dated: Brooklyn, New York  
September 24, 2021**



  
**JH Mazer-Marino**  
**United States Bankruptcy Judge**